

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of CHAD E. RANEY and U.S. POSTAL SERVICE,
POST OFFICE, Dallas, TX

*Docket No. 99-156; Submitted on the Record;
Issued October 5, 2000*

DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,
VALERIE D. EVANS-HARRELL

The issue is whether appellant's back surgery on April 27, 1982 and his disability beginning June 1981 are causally related to his employment injuries or to factors of his employment.

This case has previously been before the Board on two occasions. On the most recent prior appeal, the Board, by decision and order dated December 13, 1996, found that the case was not in posture for a decision because "the report of Dr. [Benzel] MacMaster, the Board-certified orthopedic surgeon selected to resolve the conflict of medical opinion, requires clarification or elaboration." The Board noted that Dr. MacMaster indicated that appellant's employment injuries aggravated his degenerative condition and that Dr. MacMaster did not address the issue of whether appellant's disability beginning June 1981 or his need for surgery were causally related to his employment injuries or to factors of his employment. The Board remanded the case to the Office of Workers' Compensation Programs for it to obtain a supplemental opinion from Dr. MacMaster on these questions, including an opinion whether appellant's employment injuries contributed in any way to his need for surgery in 1982.¹

On remand, the Office obtained a supplemental report from Dr. MacMaster. In this report, which was dated May 14, 1997, Dr. MacMaster set forth the history of appellant's employment injuries, noted that degenerative changes within appellant's lumbar spine were seen on plain x-rays in early medical records, and described his findings on examination, stating that it failed to reveal any evidence of acute or chronic radiculopathy. Dr. MacMaster concluded:

"Based on all the data I have received, it is apparent that the patient had four injuries at work that aggravated over a temporary period the degenerative condition in his back. However, I do not find, based on his employment history from 1977 (the date of the last injury) until 1980 (the date of his retirement) any

¹ Docket No. 94-2439.

evidence that a progressive course of deterioration was occurring that could be reasonably attributable to any of the aforementioned accidents. Likewise, the patient continued working at some capacity after his retirement from 1980 until his surgery in 1982.

“I think that it is therefore reasonable, based on the history I have obtained from the patient and the facts present in the medical record, that the patient’s degenerative condition within his spine progressed at a naturally occurring rate which was not accelerated by the injuries that occurred at work. I think the patient’s impairment and the ultimate cause for his retirement was in fact the degenerative condition in his lower back that naturally progressed, but that was not accelerated by the accidents in question. I, therefore, feel based on all evidence presented to me that there is no degree of contribution from the aforementioned work accidents to the surgery that occurred in 1982.”

* * *

“Based on the history I have obtained, the patient in fact did not quit work in June of 1981 because of a specific injury; rather this seems to be the culmination of a problem that had been occurring over years, and that ultimately Dr. Selby² found that the patient had a degree of spinal stenosis for which he underwent surgery consisting of decompression and fusion.

“It would appear that the records would suggest that the reason for the patient’s disability from work after June of 1981 was a natural progression of a degenerative disease of the lumbar spine that preexisted, based on the x-ray changes present, any of his injuries. I, therefore, would have to conclude that his work injuries are in *no way* causally related to his disability for work on or after June of 1981.

“Likewise, I find nothing in the record to suggest that his assigned duties promoted or accelerated this naturally occurring condition. At worst they contributed to a temporary aggravation of the condition which ceased well before any surgery was ever proposed on this patient.” (Emphasis in the original.)

By decision dated June 11, 1997, the Office found that the weight of the medical evidence failed to demonstrate that appellant’s recurrence of disability in June 1981 or his back surgery on April 27, 1982 were causally related to his employment injuries or to factors of his employment.

Appellant requested a hearing, which was held on April 28, 1998, and submitted a report dated January 31, 1998 from Dr. Huntly G. Chapman, a Board-certified orthopedic surgeon. In this report, Dr. Chapman stated that he had reviewed medical reports showing that appellant had

² Dr. David K. Selby, a Board-certified orthopedic surgeon, performed appellant’s back surgery on April 26, 1982.

four separate significant low back injuries between 1974 and 1977. Dr. Chapman stated, “It is my considered opinion that all of injuries that appear to patients during their lifetime are in one degree or another accumulative. Therefore, it is my opinion that the patient’s injuries, as recorded in the records, are in part producing causes of his current problems and indeed producing the cause of his need for surgery in 1982.” Dr. Chapman also stated, “It is probable that some of the patient’s employment duties affected his need for surgery. However, there is no specific injury that I am able to identify on reviewing the records....” Dr. Chapman added:

“[T]here is nothing that I see in the record to suggest that his duties would reasonably be expected to cause problems to the usual employee in the usual employment environment. However, it is indeed the case that all that has happened to this patient has contributed to a greater or lesser degree to his problems. In summary, all of the man’s preceding life contributes to a greater or lesser extent, and the degree of contribution is often difficult to determine 15 years after the event.”

By decision dated August 6, 1998, an Office hearing representative found that the weight of the medical evidence was represented by the opinion of Dr. MacMaster and established that appellant’s employment injuries and duties did not contribute to his need for surgery in 1982 or in his disability beginning June 1981. The Office hearing representative found Dr. Chapman’s report vague, indeterminate and of little probative value.

The Board finds that the weight of the medical evidence establishes that appellant’s back surgery on April 27, 1982 and his disability beginning June 1981 are not causally related to his employment injuries or to factors of his employment.

In situations where there are opposing medical reports of virtually equal weight and rationale, and the case is referred to an impartial medical specialist for the purpose of resolving the conflict, the opinion of such specialist, if sufficiently well rationalized and based on a proper factual background, must be given special weight.³ In the present case, the report of Dr. MacMaster dated May 14, 1997 was obtained to resolve a conflict of medical opinion. In this report, Dr. MacMaster concluded that appellant’s employment injuries and duties did not contribute in any way to his need for surgery he underwent on April 27, 1982 or to his disability beginning June 1981. Dr. MacMaster provided rationale for this conclusion, stating that early x-rays showed that appellant’s degenerative disease of the lumbar spine preexisted any of his employment injuries, and that his need for surgery and his disability beginning June 1981 were due to the natural progression of his degenerative disease without any contribution by his employment. As the opinion of an impartial medical specialist resolving a conflict of medical opinion, Dr. MacMaster’s opinion is entitled to special weight and establishes that appellant’s back surgery on April 27, 1982 and his disability beginning June 1981 are not causally related to his employment injuries or to factors of his employment.

The opinion of Dr. Chapman is not sufficient to overcome the weight of Dr. MacMaster’s report or to create a new conflict of medical opinion. While Dr. Chapman concluded in a

³ *James P. Roberts*, 31 ECAB 1010 (1980).

January 31, 1998 report that appellant's employment injuries were in part producing causes for his surgery in 1982 and his current problems, the only explanation Dr. Chapman provided for this opinion is that "all of the injuries that appear to patients during their lifetime are in one degree or another accumulative." Unlike Dr. MacMaster, Dr. Chapman did not discuss appellant's x-rays or his degenerative disease of the lumbar spine. Dr. Chapman's statements are of general application, and are of little probative value in determining whether appellant's back surgery on April 27, 1982 and his disability beginning June 1981 are causally related to his employment injuries or to factors of his employment.

The decision of the Office of Workers' Compensation Programs dated August 6, 1998 is affirmed.

Dated, Washington, DC
October 5, 2000

David S. Gerson
Member

Willie T.C. Thomas
Member

Valerie D. Evans-Harrell
Alternate Member